

# THE INDEPENDENT

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## MR. AYDLETT ASKED TO APPEAR AND SHOW CAUSE

City Attorney Himself Resigns and Says Mr. Aydlett's Seat on School Board Should Also Be Declared Vacant

E. F. Aydlett, U. S. Attorney for the Eastern District of North Carolina and at the same time Chairman of the Board of Graded School Trustees of Elizabeth City has been notified to appear before the Board of Aldermen of Elizabeth City and show cause why he should not vacate the latter office. This action was taken by the Board of Aldermen at a special meeting Wednesday evening. At their regular meeting Monday evening the Aldermen asked the City Attorney W. L. Cohoon for an opinion as to the eligibility of Mr. Aydlett to remain on the school board. The Aldermen at the same time asked Mr. Cohoon if he himself was not holding two offices contrary to law. City Attorney Cohoon promptly disposed of his own case by tendering his resignation as City Attorney and gave the Aldermen his opinion that Mr. Aydlett is holding office on the Board of Graded School Trustees contrary to law. Mr. Cohoon's opinion follows:

TO THE HONORABLE BOARD OF ALDERMEN IN AND FOR THE TOWN OF ELIZABETH CITY, N. C.

**REPORT:**  
Your Honorable Board having referred for my consideration and opinion as to whether Mr. E. F. Aydlett vacated the office of Trustee of the Elizabeth City Graded School, when he accepted and qualified as U. S. District Attorney, also whether I am qualified to serve as Town Attorney, while acting as a member of the Board of Trustees of the Colored Normal School, I beg to submit as follows:

**FIRST:** In my opinion, a Trustee of a Graded School is an office, notwithstanding the fact that the Legislature, in creating the Board of Trustees, said that a Trustee was not an office. We cannot amend the constitution of North Carolina by an act of the Legislature. The constitution can be amended only after the qualified voters of the State have had the opportunity to vote upon such an amendment. The Supreme Court of North Carolina held in the case of *Midgett vs. Grey*, 159th North Carolina Report, page No. 445, that a school committee is an office and later in the 175th North Carolina Report, page No. 820, the Supreme Court of North Carolina held as follows:

"The acceptance of an office by an individual vacates his previous office in the second one."

So, if the position of Trustee of the Graded School is an office, the acceptance of U. S. District Attorneyship will vacate ex instanti the position of Trustee and my opinion is that the Trustee-ship held by Mr. Aydlett, prior to the acceptance of U. S. District Attorneyship, under the law, is vacant and has been since he qualified as U. S. District Attorney.

**SECOND:** As to my status, I simplify it by herewith tendering my resignation as City Attorney. The matter had not been called to my attention. If so, I would have resigned as Trustee of the Colored Normal School when I accepted the position of City Attorney. Now that it is brought clearly to my attention, I find it is my duty to myself and your Honorable Board, to resign, my opinion being based upon the decision of our Supreme Court, as laid down in *Barnhill vs. Thompson*, 122nd North Carolina Report, page No. 93; *Midgett vs. Grey*, 159th North Carolina Report, page No. 445; *State vs. Wood*, 175th North Carolina Report, page No. 820.

Respectfully submitted,  
W. L. COHOON,  
City Attorney.

Mr. Aydlett is out of the city and probably will not find it convenient to appear before the Aldermen until some time next week.

The Aldermen probably were moved to their action in this case by the editorial in last week's issue of this newspaper. This newspaper contended that Mr. Aydlett holds office on the Board of Graded School Trustees contrary to law and that his office should be declared vacant. Authority to declare the office vacant and appoint a successor to Mr. Aydlett is in the Board of Aldermen.

Will Mr. Aydlett fight for his position on the School Board. If he does, he places himself in an embarrassing position because Mr. Aydlett himself has contended that a school committee is an office in contemplation of the constitutional provision that no one shall hold two offices in this state. In the famous case of *Midgett vs. Grey*, from Manteo, Mr. Aydlett was attorney for the plaintiff *Midgett* and the issue involved this very question. Mr. Aydlett contended in that case that a school committee was an officer within the

## ON TRIAL FOR MURDER.



ST. CLAIR LEWARK

THE subject of this photographic reproduction is St. Clair Lewark, one of the two guardsmen on trial at Currituck C. H. for the killing of Darwood Gallop. One witness has testified that Lewark fired the shots that killed Mr. Gallop. Lewark was for many years in the U. S. Life Saving Service, now the U. S. Coast Guard, and the picture shows him in the uniform of the service to which he formerly belonged. The trial will be fully covered by this newspaper.

meaning of the law. Mr. Aydlett won his case in the Supreme Court.

The Aldermen are cautious in dealing with Mr. Aydlett. He has his friends on the Board and there are others on the Board who are afraid of him. But those who are interested in the proposed \$400,000 bond issue for the city's schools will not rest easy until Mr. Aydlett is off that school board. There is a cute little provision in the bond bill that the coupons on these school bonds shall bear the fac simile signature of the Chairman of the Board of Graded School Trustees. If Mr. Aydlett holds his office it will be his fac simile signature on those coupons. This newspaper wants the Aldermen and the tax payers of this city that their entire bond issue will be declared invalid if Mr. Aydlett's signature goes on those bonds. Mr. Aydlett may contend that he knows more law than this newspaper. But can the Board of Aldermen of Elizabeth City afford to take chances and jeopardize the school interests of this city thru a fear of offending a man who is known to be openly hostile to the expenditure of any considerable sum in school improvements? The further action of the Aldermen in the case of Mr. Aydlett will be watched with interest.

Mr. Aydlett could save an embarrassing situation and put himself in a better light with his home people by doing just as Mr. Cohoon has done in the circumstances—tender his resignation and be done with it. But Mr. Aydlett does not so readily relinquish a thing effecting his self interests.

## O. F. GILBERT ACQUIRES ANOTHER BARGAIN STORE

Enterprising Elizabeth City Merchant Plans to Have a String of Such Stores in Other Towns.

O. F. Gilbert, proprietor of Mitchell's Department Store and the People's Bargain Store, has purchased a third store in this city. The new addition to his chain is the store of M. M. Hurdle on South Pointdexter St., the store originally established by the late J. W. Munden. Under Mr. Gilbert's management the store will be called Gilbert's Bargain Store. It will cater to the money-spending class of trade and will be under the management of T. L. Jarvis, manager also of the People's Bargain Store.

Mr. Jarvis promises to introduce some innovations in the new Bargain Store, putting in a soda fountain and quick lunch stand. His motto probably will be: "We fit you out from belly to back." But laying all jokes aside, this new venture of Mr. Gilbert is but the beginning of a chain of stores which he plans to establish in other towns. He already has several other locations in view.

H. H. Lavenstein, for many years in the mercantile business in this city, but now in Petersburg, Va. was in Elizabeth City this week for the first time in three years.

## ASKS FOR A 2ND DEGREE VERDICT

Trial of Lewark and Wicker Under Way at Currituck Court House.

By D. V. MEEKINS.

Currituck C. H., N. C., Mar 10, 1921.—After exhausting a special venire of 150 names and calling another venire of 25 a jury of twelve was secured in the case of State against St. Clair Lewark and John Wicker at Currituck C. H. at 1:15 o'clock this afternoon. The jury was immediately empaneled and the taking of testimony had begun as this newspaper went to press.

The jurors are T. W. Jones, G. C. Jones, W. U. Ballance, H. E. Morrisette, C. M. Cayton, C. H. Meads, Frank Ballance, A. P. Barco, Wm. Poyner, B. L. Gray, Sidney Hartley and Luther Seaff. The State asks for a second degree verdict and the sentiment in Currituck which at one time foreshadowed a trial for murder in the first degree seems to have re-acted in favor of the defendants.

Hon. T. C. Bowie, of Ashe County is assistant to Solicitor Ehringhaus in the prosecution. The defense is represented by Aydlett & Simpson and Meekins & McMullan, of Elizabeth City.

Judge Allen convened court at 10 o'clock Tuesday morning. The crowds began to flock inside the building immediately upon response to the notice from the crier. In ten minutes the crowd had filled every usable seat, had overrun into the aisles, had packed the room from the entrance to the bar and occupied every obtainable chair inside the rail. Eighteen men, comprising the grand jury was quickly empaneled and the notable quietness of the room attested the deep interest shown in the charge of the Judge.

"A notable thing it is," said Judge Allen, "that nobody has asked to be excused and I think we have begun the day well." After opening his charge with these words, his honor charged the jury at length regarding the grave responsibility accruing from its position. "I feel no hesitancy in saying," he remarked, "that in spite of all averted to the contrary, that crime is on the increase and evils abroad in the country grow more rampant daily. It is doubtful that education and enlightenment have materially contributed to the decrease of crime in the state, for with all the enlargement and advancement of our educational facilities, it is obvious that crime is on the increase daily and manifests itself in many forms unknown a short time ago."

Judge Allen was of the opinion that the increase in crime cannot be attributed to a lowering of morals or a lessening sense of responsibility in the public mind, but held that new conditions and new reforms now at work have not had sufficient time to work the constructive influences necessary to take the place of the evil ones now being discarded. Any place left vacant is soon occupied and unless good influences may work, there is much opportunity for evil to enter in.

Judge Allen's charge struck a responsive note in the hearts of his hearers for he was heard with rapt attention. After the grand jury retired, the disposal of several small cases occupied an hour and during that time the crowd of spectators thinned considerably. About 12 o'clock Lewark and Wicker were brought into the court room and the crowd returned immediately behind the prisoners, and jammed the room as before. The crowd filled the open windows, hung upon the rail, stood on the seats and made use of every point of vantage in the building. The crowds on the fall out of the view of those in the rear, and the aisles were packed so dense as to hinder court officers from passing in and out of the building. The audience was repeatedly requested to clear the aisles, but it was to no avail. As soon as once cleared, newcomers entered the room and filled them tight again.

### Finding a Jury.

Finding a jury for this important case was no easy task. A special venire of 150 names of men living in the several townships was drawn and summons were sent these men thru neighbors who were at court. Many men stayed away from court as no one was anxious to get on this jury, but the special venire caught them anyway. Those men whose names were drawn were summoned to appear at the courthouse Wednesday at 2:30.

At 2:30 on Wednesday the press of unfinished business postponed the trial and the special venire was dismissed for the day with orders to be on hand on Thursday morning.

### Much Interest Manifested.

More interest has been manifested in the Lewark trial this week than has been shown in northeastern North Carolina in any case in many a year. Visitors flocked from five counties and before noon, fully 500 people had gathered on the grounds. Every available fence post was utilized for hitching and cars were parked in the vicinity on every convenient foot of space. Hundreds came by water and many small boats were anchored in the sound abreast of (Concluded on Page 10.)

## FISH SHIPMENTS PICK UP IN PAST FEW DAYS

But High Express Rates and Run of Crabs Offset Much Fisherman Luck.

No apparent increase to date marks the fishing business for this season, according to the estimates of many old fish men of this section, but at the rate the shipments are picking up these days, everything indicates that the season will wind up with a decided increase over the totals of last year. Prices in most cities seem to hold up very well as the catches increase, although a perceptible drop has been noted on the New York markets, within the past week. Shad were selling there a week ago for 50 and 75 cents a pound, bucks and roes respectively, and a slump in the sales during the first of the week brought bucks down to 35 cents and roes down to 65 cents a pound.

During the month of January only 448 shipments of fish passed the Elizabeth City Express office. The total of these shipments was approximately 500 boxes. In addition a few boxes were sold on the local markets, but the number was negligible. In February, shipments increased materially and the total for that month was 1,144 shipments, estimated at about 1,500 boxes. It is estimated that about five to six boxes extra per day were sold on the retail markets of this city. During these periods covered, there were about 150 boxes of fish shipped to Norfolk by other routes.

During the first five days of March, shipments made rapid strides thru the local express office and doubled the gross business for the entire month of January, or a total of 880 shipments which average in the neighborhood of 1,000 boxes.

In order that the fishermen may receive a fair return for their efforts it is necessary that prices range higher this season, since express rates are considerably higher than those of last year. It now costs 97 cents expressage, including war tax, on a 125-pound box of fish from Elizabeth City to Norfolk, not to speak of charges between the shipping points and this city and between Norfolk and Baltimore, Philadelphia or New York. It is however the package may be consigned. The increased rates this year have made the fishermen more cautious and very little new gear was raised, but reason. A few pound nets were made and last year's gill nets were patched up by the fishermen believing the old stands sufficient to tide them over if there should be plenty of fish, and more than enough with a scarcity.

The hopes of a good season on the parts of the gill net fishermen have been somewhat dampened by an unusual run of crabs which spoil a great many shad and promise to be a serious menace should the shad run thicker later on. Many people down the sounds are turning their attention to crabbing altogether since the scarcity of crabs in Chesapeake Bay has driven buyers to the North Carolina waters. Crabs sell for about \$2.50 a barrel and on good days two men with 1,000 yards of line may make a catch of from four to ten barrels.

Thick water contributes to the successful fishing of gill nets as the shad are not able to see the twine and are snared before they are aware of the danger. This thick water is occasioned by floods of water from the highlands which run down in the sounds, driving out the sea water which is salt and clear and a big asset to the pound net fishermen. Fish are entrapped in pound nets after following a lead to the pocket of the net and unless the water is clear the lead is not visible and being tied in large meshes, the fish slip thru before they observe its presence. At present the largest catches of shad have been taken by gill net fishermen as the water down the sounds has been thick and fresh all spring, even around the inlets where the sea water usually floods inside and makes things salt for miles around.

## COMSTOCK LEAVES FORCE.

Following an investigation of the tragedy at the Southern Hotel in this city Sunday night, Feb. 27, police officer W. P. Comstock tendered his resignation to the Board of Aldermen. It was charged by this newspaper last week that Officer Comstock contributed to the double murder and suicide by failure to properly guard the women in his custody. As a patrolman Comstock was a valuable member of the police force. City Manager Commander says he could always be found on his beat, no matter the hour of the night. But in a situation requiring special vigilance and tact he was found wanting.

## Hathaway Says

If you wear glasses, have your eyes and glasses both examined from time to time, and go to the place where you can afford to pay a reasonable price for real professional work. Remember your eyes are your bread-winners. Take care of them.

You have your teeth examined twice a year. Why not your eyes? They are more important.

Dr. J. D. Hathaway  
Optometrist  
Phone 999 Bradford Bldg.

## ELIZABETH CITY LOSES ANOTHER GOOD PLAYER



EARL BOYCE.

HARDLY does the ink get dry on the contract between "Snooks" Evans and the New York Giants when the Virginia League drops into Elizabeth City and takes another crack local player. Earl Boyce, pitcher of the Elizabeth City Cubs last season has signed up with the Suffolk baseball team in the Virginia League, to report sometime next month. Raymond Evans, who recently signed with the Giants, has already joined McGraw's men in Texas where the Giants are practicing for the season of 1921.

## COAST GUARD LOCATED HIS FLYING DAUGHTER

Elizabeth City Office of the District U. S. C. G. Quick to Locate Missing Airplane.

Having had no word in seven days from his daughter, Mrs. B. D. Severn, who left Miami, Fla. on Feb. 20 in an airplane to visit her parents, Mr. and Mrs. W. J. Tate, at Coinjock, N. C., Mr. Tate called on the U. S. Coast Guard offices in this city Monday of this week to help him locate his daughter. The Coast Guard office flashed a wireless message down the coast, located the lost plane at Tybee Beach, near Savannah, Ga. and in a few hours Mr. Tate was assured that all was well with his children.

Mrs. Severn and her husband left Miami on Feb. 20, expecting to arrive at Coinjock a few days later. They encountered bad weather and laid up at Tybee Beach, but failed to notify their parents of their whereabouts. Mr. Severn is a professional aviator and owns a passenger carrying machine which he flies at Atlantic City during the summer season and at Florida coast resorts in winter.

Mr. Tate knew to call the Coast Guard for information because his father was captain of Kitty Hawk Life Saving Station as far back as 1875 and Mr. Tate knew how well the Coast Guard keeps an eagle eye on every foot of the coast, every minute and every hour, night or day. It is also a fact that Mr. Tate helped build the first heavier than air flying machine, Wilbur and Orville Wright having conducted their original experiments at Mr. Tate's old home at Kill Devil Hill. Having had a hand in building the first machine that ever flew and having lived to see one of his daughters married and carried away by an aviator, Mr. Tate doesn't want the history of his finger in aviation to be marred by a tragedy at this late date.

## TO BRING NORFOLK TEN MILES NEARER

Work Progressing on Dismal Swamp Canal Road Linking Two States.

The city of Portsmouth, Va., will begin active work this week in the construction of a ten-mile link of road on the banks of the Dismal Swamp Canal between Deep Creek and the North Carolina line. The authorities of South Mills township, Camden county, are already pushing work on the construction of their link of road on the canal bank from South Mills to the Virginia line. With the completion of this project and the construction of the brick road from Elizabeth City to the Newland section of this county, Elizabeth City people will have an almost airline link highway to Norfolk, a route shorter by ten miles than the present route thru the counties of Camden and Currituck. It is only about 42 miles from Elizabeth City to the cities of Portsmouth and Norfolk via the Dismal Swamp canal route.

An agreement between the Virginians and the authorities of Camden relating to the maintenance of the proposed road was signed this week.

## SAD DEATH OF A MOTHER.

Stricken dumb and blind at the birth of her fourth baby Mrs. Letitia Sawyer, wife of Henry Sawyer, Chestnut St. city, died last Saturday afternoon, after two weeks of suffering. She is survived by her husband, three little girls and a baby boy.

## GENERAL ASSEMBLY ENDS NOTABLE 1921 SESSION

Elizabeth City Breathes a Sigh of Relief With Her Representative Back To His Own Stock of Merchandise.

## DIVORCE LAWS UPSET FOR \$1,000

Elizabeth City Girl Wanted a Divorce—Her Attorney Has Law Amended To Fit Her Case.

There was a lone woman member of the recent General Assembly of North Carolina, Miss Exum Clements, of Asheville. Miss Clements was a quiet, staid, demure and unobtrusive member. There was nothing militant about her; she didn't go to Raleigh shouting for woman's rights or proclaiming "we told you so." She just took her seat in a corner and let the men run that law-making machine without interference from her. And presently all the male members began to wonder what the little woman from Asheville wanted to come there for any way. And most of them decided that if she ever made known what she wanted they would obligingly let her have it, because she was so friendly, so self-effacing and so nice.

The male members of the General Assembly, both Houses, thought they had found what they wanted when she dropped a bill into the hopper striking out the word ten in line two of Sec. 4 of Article 165 of the North Carolina Consolidated Statutes. The members were occupied with road legislation, stock law legislation, tick legislation, appropriations and every other kind of legislation. They didn't pay much attention to the Clements' bill. It appeared that she wanted to amend the divorce law that five years would be a sufficient length of time for a husband and wife to live apart in North Carolina in order to get a divorce. Very well, if that was what the women wanted, let 'em have it! In some such frame of mind was the average member of the General Assembly.

Miss Clements made no fuss about her bill. Nobody made any fuss about it and it traveled thru the routine of passage in the House, went to the Senate, got thru there, was ratified and became a law.

The true history of that Clements' Divorce Act which makes it easier by five years for an estranged couple to get a divorce in North Carolina is an interesting story which this newspaper has not hitherto been enabled to tell. That Clements' Divorce Act is nothing more nor less than the work of an enterprising Elizabeth City lawyer and how he came to put the thing over will give local gossip something to talk about for a week.

There is a certain highly estimable little woman in Elizabeth City who wants a divorce from her husband from whom she has been separated for five years. Her father took the case to Walter L. Cohoon and suggested a fee of \$1,000 if Mr. Cohoon would get a divorce for the daughter.

The law was against him. There are only four grounds for divorce in this state. First, either husband or wife must have committed adultery; Second, either husband or wife must be naturally impotent; Third, the wife must have been en ciente without the knowledge of the husband at the time of marriage; Fourth, husband and wife must have lived apart for ten successive years.

The Hon. Walter L. Cohoon could see but one way to get that thousand dollar fee and that way was to amend the Divorce Laws. Attempts to amend these laws had been made before, but such attempts had invariably precipitated a fight and ended in defeat. But Walter Cohoon is indomitable. The Legislature was in session and he packed off to Raleigh and stayed right there until he got what he wanted. He wrote the bill which Miss Clements introduced and Miss Clements was persuaded that it was a right good bill for the relief of the oppressed women of her sex. And no one thought of Cohoon in connection with the bill, tho everybody wondered what was keeping Cohoon in Raleigh all these weeks.

There was a Baptist preacher in the General Assembly who might have bucked the Clements Bill, but Walter Cohoon and that Baptist preacher struck up such an intimate acquaintance that the preacher couldn't see the Divorce Bill thru Cohoon, or see Cohoon thru the Divorce Bill. The preacher never gave trouble.

And so here's the inside story of how the drastic divorce laws of North Carolina got an amendment in the recent General Assembly.

Capt. A. W. Styron and wife, Capt. John Allen Midgett and Misses Lenora Midgett and Mattie Gould, of Salvo, were in Elizabeth City this week.

Eva Harrell, the eighteen year old girl who figured in the tragedy at the Southern Hotel in this city Sunday night, Feb. 27, died from her wounds last Friday, making the third victim of the most horrible murder and suicide ever committed in this city.

What will go down in history as a notable session of the North Carolina General Assembly concluded its labors of sixty and three days at 2 o'clock Wednesday night. It has been an exciting session for Elizabeth City with C. A. Cooke representing Pasquotank County in the House, and Elizabeth City is right glad that the session is over. But so persistently and so vigorously did the people back home keep down behind Cooke that his record as it stands will not be as objectionable as it might have been.

Let's dispose of Cooke in a paragraph. As far as can be learned he put thru only two notable local measures one effecting the Board of Graded School Trustees; the other effecting the Pasquotank Highway Commission. He first undertook to upset the present school board and create one to his own liking. This bill was finally modified and the matter of decreasing the number of members of the school board is submitted to a vote of the people in the regular city election to be held Tuesday, May 3, 1921. The bill provides for a board of seven trustees, one from each ward, two from the city at large and the Mayor shall be ex officio chairman of the board. Mr. Cooke then increased the number of members of the Pasquotank Highway Commission from five to seven and has appointed four of the number, the terms of two of the present members (W. J. Woodley and J. J. Morris) having expired. Cooke's appointments are E. F. Cohoon, J. J. Morris, A. E. Jones and O. L. Bundy. These with A. B. Houtz, J. W. Foreman and O. F. Gilbert constitute the Highway Commission as it stands under the Cooke Act. Little bit of consequence did Mr. Cooke put over except a few increases in salaries of county officers.

### Notable Legislation.

The outstanding act of the recent General Assembly was the Doughton-Cohoon-Bowie road bill providing for the construction of 5,500 miles of state highways and carrying with it a bond issue of \$50,000,000. Added to this major road bill there were more than 100 local road and street improvement bills aggregating another \$25,000,000.

And after being generous with roads the Legislature turned its attention to schools and other public institutions and appropriated \$6,745,000 for a two year program. The most progressive element in the state had asked for \$20,000,000 for a six year program.

But the boldest act of this Legislature was the passage of a State Wide Stock Law without any amendments excepting certain counties or sections.

Other notable legislation was an act abolishing the practice of kissing the bible in taking oaths; an act requiring parties to a marriage contract to show certificates of health before license to marry may be issued. And there was legislation strengthening primary and secondary educational work and providing a fund of \$5,000,000 for the assistance of needy communities in the erection of school houses.

### Things Not Done.

Some things the General Assembly did not do. It refused to repeal the state wide primary law; refused to make tick eradication compulsory; refused to increase the interest rate; refused to call a constitutional convention; refused to increase the pay of members of the General Assembly; declined to provide a censorship for moving pictures and tabled a measure which proposed to co-ordinate state and federal prohibition laws.

### No Property Tax.

For the first time since North Carolina assembled a legislature in 1789, no tax was levied on property for State uses. The Revenue act provides for taxes on incomes of individuals, and corporations, inheritance, privilege, etc., for its revenue. And in furtherance of the tax reforms, a separate Revenue Commission, with a revenue commissioner was formed to have general supervision of the State and local tax work in the State.

Two months ago when the General Assembly came into session, paramount in the minds of many members was the dissatisfaction of their people at the workings of the Revaluation act. Insistent demands were made through a dozen or more bills, for a horizontal reduction in values. Two months steady work brought forth a bill that provides for a local adjustment of this revaluation, and a horizontal reduction by counties, if found just.

The twelve months' road sentences imposed on W. D. and Aaron Lee, of the Four Oaks section, near Wilson, who were convicted for having in their possession for the purpose of sale, nine gallons of whiskey, have been changed to fines and costs. W. D. Lee was taxed with a fine and cost which amounted to \$254.25; Aaron Lee got off with \$104.25.